

## **SECOND MODIFICATION**

### **TO CLASS SETTLEMENT AGREEMENT AND RELEASE**

WHEREAS, (1) Damarcus Stewart (“Class Representative”), individually and on behalf of the proposed Settlement Class Members, and (2) Accurate Background, LLC (“Defendant” or “Accurate Background”) (collectively, the “Parties”) entered into a Class Settlement Agreement and Release (“Settlement Agreement”) dated May 5, 2023 and submitted to the Court as ECF 23-1;

WHEREAS, pursuant to the discussion with the Court on the record on October 11, 2023, the Parties agreed to modify their Settlement Agreement and submitted to the Court a Modification to Class Settlement Agreement and Release at ECF 46-1;

WHEREAS, pursuant to the discussion with the Court on the record on February 28, 2024, the Parties agreed to modify their Settlement Agreement a second time to address the Court’s concerns;

NOW THEREFORE, pursuant to Section 13.12 of the Settlement Agreement, the Parties hereby agree that the Settlement Agreement is modified as follows:

Sections 6.1(e) and 8.3 of the Settlement Agreement are modified to delete any and all references to a “\$30,000” and any and all references to a “\$20,000” as an “individual settlement” for Plaintiff Damarcus Stewart, and instead Defendant agrees to make a total payment to Plaintiff Damarcus Stewart in the amount of \$5,000 as a service award for his services to the class in exchange for his general release of all of his class claims in this Litigation.

Sections 6.1(f) and 8.1 of the Settlement Agreement are modified to delete any and all references to a “\$184,000.00” and instead Defendant agrees to make a total payment to Plaintiff’s counsel for counsel fees in this Litigation in the amount of \$95,750.00 and of an additional \$10,000.00 in Litigation costs and expenses, for a grand total payment to Plaintiff’s counsel in the amount of \$105,750.00.

Sections 6.1 and 1.37 of the Settlement Agreement are modified to delete the “\$487,000.00” figure and to replace that Gross Settlement Amount figure with the amount “\$383,750.00,” in order to account for the above modifications to Sections 6.1(e)/8.3 and 6.1(f)/8.1.

No recovery for Class Members out of the Qualified Settlement Fund as set forth in the Settlement Agreement (ECF 23-1) and in Plaintiff’s Motion for Final Approval of

the Settlement (ECF 53) shall be affected by any modifications in this Second Modification To Class Settlement Agreement And Release.

For Plaintiff and the Settlement Class:

Dated: March 6, 2024

By

  
John Soumilas

**FRANCIS MAILMAN SOUMILAS, P.C.**

Attorneys for Plaintiff and Class Members

Damarcus Stewart

Plaintiff, Damarcus Stewart

For Defendant:

Dated: March 6, 2024

By:

  
Pamela Q. Devata

**Seyfarth Shaw LLP**

Attorneys for Defendant

DocuSigned by:

Tiffany Willis

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Defendant, Accurate Background, LLC